

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

PIYA BROTHERS, INC. D/B/A
TRIANGLE FOOD MART

Plaintiff,

v.

NATIONWIDE INSURANCE COMPANY
OF AMERICA

Defendant.

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CIVIL ACTION NO. 4:15-cv-887

NOTICE OF REMOVAL

Defendant, Nationwide Insurance Company of America (“Defendant”), through undersigned counsel and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, files this Notice of Removal of the captioned action *Piya Brothers, Inc. d/b/a Triangle Food Mart v. Nationwide Insurance Company of America*; Cause No. 048-281732-15, in the 48th District Court of Tarrant County, Texas.

BACKGROUND

1. Plaintiff Piya Brothers, Inc. d/b/a Triangle Food Mart initiated this action by filing its Original Petition in Cause No. 048-281732-15, in the 48th District Court of Tarrant County, Texas on October 12, 2015 (the “State Court Action”). *See* Exhibit A, Plaintiff’s Original Petition. The Original Petition was served on Defendant through its registered agent on October 26, 2015. *See id.*

2. Defendant filed its Original Answer on November 4, 2015, in which it asserted a general denial. *See* Defendant’s Original Answer, attached as Exhibit B.

II. DIVERSITY JURISDICTION

3. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and the matter is removable to this Court pursuant to 28 U.S.C. § 1441(a) because there is complete diversity of citizenship between the properly joined parties and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

A. Diversity of Parties

4. Plaintiff is domiciled in Tarrant County, Texas. Pursuant to 28 U.S.C. § 1332(a), therefore, Plaintiff is a citizen of the State of Texas.

5. Nationwide Insurance Company of America is organized under the laws of Ohio and maintains its principal place of business in Columbus, Franklin County, Ohio. Pursuant to 28 U.S.C. § 1332(c)(1), therefore, Nationwide is a citizen of the State of Ohio

6. Accordingly, there is complete diversity between the parties.

B. Amount in Controversy

7. In violation of Rule 47(c) of the Texas Rules of Civil Procedure, Plaintiff fails to plead a specific range of monetary relief sought by way of this lawsuit.

8. Plaintiff did, however, send Defendant a pre-suit demand in which Plaintiff sought the total amount of \$414,000, easily in excess of the minimum jurisdictional limits of this Court. Exhibit C, demand letter, at pp. 1, 6. The amount in controversy requirement is satisfied.

III. CONCLUSION

9. Removal is proper because there is complete diversity between Plaintiff and Defendant, the amount in controversy exceeds \$75,000, and Defendant is not a citizen of the state in which this case was brought.

10. Pursuant to 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Defendant will give written notice of the removal to Plaintiff through his attorney of record, and to the clerk of the 48th Judicial District Court of Tarrant County, Texas.

Respectfully submitted,

/s/ Patrick M. Kemp

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**ATTORNEYS FOR DEFENDANT,
NATIONWIDE INSURANCE COMPANY OF
AMERICA**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served upon the following counsel of record via certified mail, return receipt requested on this the 20th day of November, 2015.

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/s/ Patrick M. Kemp

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